Preparatory Committee for the 2020 Review Conference of the Parties to the Treaty on the Non-Proliferation of Nuclear Weapons

19 April 2018

Original: English

Second session
Geneva, 23 April–4 May 2018

Establishing Regional Conditions Conducive to a Middle East Free of Weapons of Mass Destruction and Delivery Systems

Working paper submitted by the United States of America*

Introduction

1. The United States has long supported efforts to advance the establishment of a zone free of weapons of mass destruction (WMD) and delivery systems in the Middle East, in the context of a comprehensive and durable regional peace and compliance by all regional states with their respective arms control and nonproliferation obligations. To this end, and consistent with our strong and enduring commitment to regional security, the United States co-sponsored a Resolution on the Middle East at the 1995 Review and Extension Conference, along with the United Kingdom of Great Britain and Northern Ireland and the Russian Federation. The United States remains fully committed to the goals of the 1995 Resolution and to doing our utmost, alongside all other Parties to the Treaty, to support the regional states in undertaking practical steps to advance its full implementation.

2. Regrettably, efforts to make progress in implementing the 1995 Resolution have been hampered by conceptual differences among the regional states regarding establishing such a zone and the unwillingness of some regional states to constructively address those differences. Rather than addressing these issues directly with their regional neighbors, some regional states have sought to use the NPT review cycle as a way to force action, including by trying to impose conditions that could not garner consensus among regional states. Such efforts are mistaken and unproductive, as they put at risk the shared security benefits that the Treaty has provided to all parties — including those in the Middle East — and call into question the future sustainability of those benefits absent progress in addressing longstanding political and security challenges in one region of the world. This approach has proven detrimental to both the NPT review process and the goal of establishing a WMD-free zone in the Middle East, as it has impeded efforts to strengthen the implementation of the Treaty across areas of common interest; sought to shift responsibility for implementing the 1995 Resolution from the regional states to parties outside the region; and undermined mutual confidence among regional states.

* The present document is being issued without formal editing.

18-06306 (E) 240418

Please recycle

3. The United States remains convinced that the task of creating a WMD-free zone in the Middle East — or any other region of the world — is fundamentally a regional task that must be pursued by the regional states concerned in a cooperative and pragmatic manner, through direct, inclusive, and consensus-based dialogue. This approach is consistent with the 1999 United Nations Disarmament Commission guidelines concerning nuclear weapon free zones, which stipulate that the initiative to establish such zones should emanate exclusively from the region concerned and be pursued on the basis of arrangements freely arrived at by all the regional states. This paper outlines U.S. efforts to support direct regional dialogue toward a Middle East WMD-free zone since the 2010 Review Conference, discusses political and security obstacles impeding progress to date, and provides U.S. recommendations on next steps.

Looking Back: U.S. Efforts, 2010–Present

4. As a practical measure to support direct dialogue between the regional states, the United States joined consensus on the recommendations on the Middle East outlined in the 2010 NPT Review Conference Final Document, including the call for the United States to work with the United Kingdom, Russia, and the United Nations Secretary General to convene an international conference in 2012 on the establishment of a Middle East WMD-free zone to be attended by all the regional states on the basis of arrangements freely arrived at by the states of the region. In accepting this responsibility, the United States took the requirements in the 2010 Final Document seriously and worked to convene a conference that would allow for participation by all regional states on the basis of arrangements agreed by consensus, hoping and assuming that the regional states would approach such a conference in good faith and a spirit of constructive dialogue and engagement.

5. During the 2010–2015 review cycle, the United States undertook extensive diplomatic efforts in cooperation with the United Kingdom, Russia, the United Nations, and the appointed Conference Facilitator, Ambassador Jaako Laajava of Finland, to promote dialogue among the regional states on an agenda and modalities for the proposed conference. These efforts culminated in five rounds of multilateral consultations that took place in Switzerland between October 2013 and June 2014. The meetings were well attended by the regional states. All parties agreed that the consultations would operate by consensus decision-making. Despite the good faith efforts of many involved, however, the regional states were unable to reach agreement on mutually acceptable arrangements for a conference due to conceptual differences regarding the agenda for the conference. Regrettably, efforts to bridge the difference in views were suspended in early 2015 after the Arab League Senior Officials Committee declined multiple invitations and requests for dates from the Facilitator to further rounds of consultations. As a result, the conveners were unable to convene a conference that met the requirements outlined in the 2010 Final Document.

6. Unfortunately, rather than working in good faith at the 2015 Review Conference toward a mutually acceptable way ahead, some Arab League states sought instead to impose a proposal that would have mandated the United Nations Secretary General to convene the proposed conference on an arbitrary timeline, and in the absence of the crucial element of consensus among the regional states on conference arrangements. The United States made clear from the outset of the 2015 Review Conference that it would not support any proposals regarding a Middle East WMD-free zone that lacked the consent of all the regional states concerned. The Review Conference President was well aware of the U.S. position, but decided nonetheless to incorporate the Arab proposal into the draft Final Document, forcing several states, including the United States, to break consensus on the adoption of that draft. As a result of the Arab initiative and the Review Conference President's ill-considered

adoption of it notwithstanding its contradiction of the principles set forth in the 2010 Final Document that arrangements should be freely arrived at by the regional states, no agreement was possible on the Final Document for the 2015 Review Conference.

7. Since the 2015 Review Conference, the United States has remained actively engaged with the regional states, and has repeatedly reaffirmed its commitment to the long-term goal of a Middle East WMD-free zone. In January 2017, the United States met with the Arab League's Council of Wise Persons — alongside the United Kingdom, Russia, and the United Nations. We have continued to meet periodically with Russia and the United Kingdom to discuss opportunities for progress on the issue.

Impediments to Progress: Political and Security Obstacles in the Region

8. Efforts to promote dialogue on a Middle East WMD-free zone during the 2010–2015 NPT review cycle illustrated the limitations of focusing on procedural matters without addressing underlying regional political and security realities. The establishment of a zone free of all weapons of mass destruction and delivery systems has not been achieved in any geographic region of the world, and would constitute the most all-encompassing regional arms control arrangement in history. Creating such a zone in the Middle East region, in particular, would require overcoming a unique set of political and security challenges that have long impeded regional arms control efforts. Future approaches that ignore or minimize these real-world barriers to progress are similarly unlikely to be successful. In particular, the Middle East faces several principal challenges:

(a) **Lack of trust among the region states:** First and foremost, the Middle East region suffers from a persistent and well-documented lack of trust among the regional states, owing from decades of instability, armed conflict, and politically-motivated division. Efforts to build trust and confidence in the region are significantly complicated by the refusal of a number of regional states to recognize and engage Israel as a sovereign state and proclivity to instead pursue divisive actions to isolate Israel wherever possible. Nor is this lack of trust limited to regional states' non-recognition of Israel. The region also suffers from other substantial political and security divisions that have led to frequent and ongoing armed conflicts among the regional states.

(b) **Noncompliance in the region:** The lack of trust in the region is further exacerbated by a legacy of persistent and ongoing noncompliance in the region with WMD-related obligations. Over the course of recent decades, a number of regional states — including Iraq, Iran, Libya, and Syria — have all pursued undeclared weapons of mass destruction programs and activities in violation of arms control obligations. In some cases, such as Syria, this noncompliance remains ongoing. Nearly five years after acceding to the Chemical Weapons Convention (CWC), Syria continues to possess and use chemical weapons in deplorable and unconscionable atrocities against the Syrian people. Almost seven years after the International Atomic Energy Agency (IAEA) Board of Governors found Syria to be in noncompliance with its safeguards agreement for the clandestine construction of an undeclared plutonium production reactor in cooperation with the Democratic People's Republic of Korea — and more than ten years after that reactor first came to light — Syria has failed to cooperate with the IAEA to remedy its NPT and IAEA safeguards noncompliance. The prevalence of ongoing cases of noncompliance in the region has led some regional states to question the utility of pursuing regional arms control.

(c) **Regional security challenges:** The Middle East region also remains beset by a host of conventional security challenges that have bearing on regional states' security perceptions in working toward a WMD-free zone. These include, inter alia, ongoing military conflict among regional states and proxy groups, widespread political instability, regional arms races, the proliferation and development of increasingly advanced ballistic missile systems, state-sponsored terrorism, the use of chemical weapons by both state and non-state actors, and the failure of some regional states to adopt policies and practices consistent with international export control regime guidelines. Iran, in particular, continues to engage in extensive destabilizing activities across the region, including support for terrorist proxy groups and regional ballistic missile proliferation. Many of these destabilizing activities have only worsened since the 2010 Review Conference.

(d) **Lack of political will among the regional states:** Lastly, while regional states frequently bemoan a lack of political will on the part of the co-sponsors of the 1995 Resolution, the regional states have themselves shown a conspicuous lack of urgency or seriousness in pursuing practical progress on a Middle East WMD-free zone, aside from repeating generic platitudes and pursuing resolutions in multilateral fora. The evident unwillingness of some regional states to pursue progress directly with their regional neighbors — and their choice to rely on multilateral mechanisms to try to impose progress from outside the region without any apparent local preparation or commitment — is indicative of an ongoing lack of political will and diplomatic seriousness on the part of the regional states.

Moving Forward: Practical Steps to Establish the Conditions for a WMD-Free Middle East

9. None of this means that a Middle East WMD-free zone is impossible. It does, however, illustrate that approaches like those attempted in recent years by some Arab League states are doomed to failure without a significant re-thinking of tactics and strategy, and without a far more constructive approach to pursuing regional dialogue and consensus. With regard to the way ahead, the United States observes the following:

(a) **The primary responsibility for advancing a Middle East WMD-free zone lies with the states of the Middle East region, not the co-sponsors of the 1995 Resolution or NPT Parties more broadly.** The goal of creating a zone is a regional goal that must be pursued cooperatively by all the regional states concerned, as has been the case for every successful nuclear weapon free zone. This is implicitly acknowledged in the 1995 Resolution itself, the operative paragraphs of which contain no discrete action or responsibility for the depositaries. Instead, the resolution calls upon the regional states "to take practical steps in appropriate forums" to make progress on such a zone and implores all States Parties to "extend their cooperation and to exert their utmost efforts with a view to ensuring the early establishment by regional parties" of such a zone. Attributing blame to states outside the region for a lack of progress in advancing a regional WMD-free zone is unrealistic and counterproductive.

(b) **Regional dialogue on advancing a Middle East WMD-free zone cannot be divorced from discussion of regional political and security issues.** All states make sovereign decisions regarding entering into arms control arrangements in a manner informed by their unique security perceptions and political concerns. Pursuing progress on a zone in a manner that ignores or minimizes these concerns is unlikely to bear fruit. Discussion of the prevailing security

conditions and concerns of all parties must be at the center of any meaningful dialogue on a Middle East WMD-free zone.

(c) **Efforts to implement the 1995 Resolution that focus on process over substance are unlikely to succeed.** Additional procedural arrangements cannot overcome a fundamental lack of regional support and political willingness to engage in direct dialogue. The primary vehicle for pursuing progress on implementing the Resolution should be direct dialogue between or among the regional states concerned. Any new diplomatic mechanisms or processes aimed at promoting such dialogue should be mutually agreed by the regional states, and both should not and indeed cannot be dictated by NPT Review Conferences or other multilateral entities or outside powers. The United States will not support any such proposals that do not have the consensus support of the regional states. In particular, the recommendations on the Middle East contained in the 2010 Review Conference Final Document, while well-intentioned, can no longer be considered an appropriate basis for action on this issue.

(d) **The NPT review cycle cannot be the primary mechanism for progress on a Middle East WMD-free zone.** NPT Preparatory Committee meetings and Review Conferences are opportunities for assessing progress on the Treaty and strengthening implementation of the Treaty across areas of common interest, not for resolving regional disputes. The security undertakings and benefits of the Treaty are bigger than any one region, and progress in advancing the shared interests of all parties should not be held captive to parochial regional objectives. Moreover, the review cycle is particularly ill suited to resolving such issues in the Middle East, as not all regional states are a Party to the NPT or bound by decisions made in the NPT context. Continued efforts by some NPT Parties to impose a solution on the region will further erode trust among regional states and set back the goals of the 1995 Resolution.

(e) **The United States remains convinced that a more productive avenue for advancing implementation of the 1995 Resolution would be for regional states to redouble their efforts, both on a voluntary basis and in dialogue with other regional states, to pursue practical steps to establish the security, political, and diplomatic conditions needed for a Middle East WMD-free zone.** Ultimately, the establishment of such a zone will require substantial changes in the prevailing political and security environment in the region, including a comprehensive and durable regional peace. Nonetheless, real progress is possible, even in the near term, if regional states are willing to embrace a more incremental approach and pursue voluntary actions and mutual confidence building measures to establish conditions conducive to a zone. Efforts that focus on areas of mutual interest have the greatest chance of bearing fruit. The specific suggestions below represent indicative examples of practical steps, not a comprehensive list. We invite broad diplomatic dialogue on what can be done to improve regional conditions, in order to make a zone more feasible.

(i) **Building trust:** Regional states should establish channels for direct dialogue with their regional neighbors, acknowledge the legitimacy of other parties' security concerns, and recognize Israel as a sovereign state.

(ii) **Enhancing transparency:** Regional states should embrace the highest international verification and nonproliferation standards, including adherence to the IAEA Additional Protocol, and issue clear statements of national policy regarding their plans for the development and use of nuclear energy for peaceful purposes.

(iii) **Reducing nuclear latency:** Regional states should exercise restraint in their civil nuclear programs by voluntarily refraining from pursuing sensitive nuclear technologies and relying instead on international markets for nuclear fuel services. States Parties, particularly nuclear supplier countries, should extend cooperation to assure reliable and equitable access to nuclear fuel services and should insist upon high nonproliferation standards — including the IAEA Additional Protocol — in civil nuclear cooperation projects.

(iv) **Addressing noncompliance:** Regional states should be at the forefront in addressing regional cases of noncompliance and ongoing WMD use in the region, and should refrain from defending or tacitly accepting noncompliance by other states in the region, including Syria. All states must cooperate to protect international mechanisms of transparency and accountability, such as the Organization for the Prohibition of Chemical Weapons and the IAEA, from attempts to undermine their efficacy and credibility.

(v) **Promoting the responsible use of sensitive technology:** Regional states should harmonize national export control systems with multilateral export control regimes, including the Nuclear Suppliers Group, Missile Technology Control Regime, Australia Group, and Wassenaar Arrangement, and subscribe to the Hague Code of Conduct against Ballistic Missile Proliferation.

(vi) **Refraining from unconstructive actions:** Regional states should discontinue any and all military or security cooperation with the DPRK; exercise maximum restraint in the development, testing, and deployment of ballistic missiles capable of delivering weapons of mass destruction; and cease all support for terrorist and proxy groups in the region.

(vii) **Building technical capacity for implementation:** Regional states should develop and enhance existing expertise and technical competencies for implementing arms control verification and monitoring measures, as such skills will be necessary for ultimately implementing a WMD-free zone in the region.

(f) **All Parties to the Treaty should play a constructive role in supporting the regional states in the above endeavors and extending cooperation where feasible and appropriate.** NPT Parties should provide support and cooperation, include the provision of appropriate capacity building measures, to support the regional states in undertaking such steps. Also, States Parties should refrain from unconstructive efforts that are not conducive to the establishment of a Middle East WMD-free zone, including the provision of material and political support to regional states in perennial noncompliance with their arms control and nonproliferation obligations.

(g) **The United States is firmly committed to supporting the regional states in undertaking practical steps and facilitating direct regional dialogue to establish conditions conducive to a Middle East free of all weapons of mass destruction and delivery systems.** We believe such an approach, if pursued in a cooperative and consensus-based manner, will be more productive than past approaches in creating a safer and more secure region. We look forward to further discussion of this issue with the regional states and among all States Parties throughout the review cycle.